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OFFICE OF PETITIONS

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| In re Application of | : | |
| Karen L. Fincher et al. | : | |
| Application No. 09/849,529 | : | DECISION ON PETITION |
| Filed: May 7, 2001 | : | UNDER 37 C.F.R. §1.137(F) |
| Attorney Docket No.: 16517.247 [38- | : | |
| 21(51893)B] | : | |
| Title: NUCLEIC ACID MOLECULES AND | : | |
| OTHER MOLECULES ASSOCIATED | : | |
| WITH PLANTS | : | |

This is a decision on the petition filed December 3, 2003, pursuant to 37 C.F.R. §1.137(f)¹, to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

- (1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication²;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
- (3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on December 17, 2001. However, the United

¹ The decision on the original erroneously identified the original petition as being filed under 37 C.F.R. §1.137(b).

² See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at <http://www.uspto.gov/web/forms/index.html>.

States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

On December 3, 2003, a Notice of Rescission of Nonpublication Request was filed with the instant petition.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 20, 2004 accompanies this decision on petition.

After this decision is mailed, the application will be forwarded to Technology Center 1600.

Telephone inquiries concerning *this decision* should be directed to Attorney Paul Shanowski at (703) 305-0011.



Paul Shanowski
Attorney
Office of Petitions
United States Patent and Trademark Office